

保密协议
Non-Disclosure Agreement

本保密协议（以下称“协议”）由下述当事人订立：

This Non-Disclosure Agreement (hereinafter referred to as “Agreement”) is made and entered into by and between:

金富宝电路板器材（昆山）有限公司
Schmoll PCB Equipment (Kunshan) Co., Ltd.

注册地址： 昆山市张浦镇俱巷路1367号科创楼5楼
Registered Address: 5th Floor, Building No.4, No.1367 Juxiang Road, Zhangpu Town, Jiangsu Province, PR.
 China
法定代表人： Steinert Christian
Legal Representative: Steinert Christian

以下简称“金富宝”
hereinafter referred to as the “Schmoll”.

和
and

[...]

注册地址：
Registered Address: [...]
法定代表人：
Legal Representative: [...]

- 以下简称为“ 另一方”
- hereinafter referred to as the “Party” -

- 金富宝 和[...]以下单独称为“一方”，合称为“双方”。
- Schmoll and [...] hereinafter also individually referred to each as “Party” and collectively as “Parties” –

鉴于/WHEREAS:

双方订购协议，一方可能向另一方披露一些专有和机密的信息（“**保密信息**”）。为了明确另一方的保密义务，双方本着平等、自愿、公平和诚实信用的原则，订立本保密协议（“**协议**”），无论双方最终是否会建立业务合作和/或合同关系。双方确认在签署本协议前已经详细审阅过本协议的内容，并完成了了解协议各条款的法律含义。

Both Parties intends to conclude the purchase and supply agreement. It may be necessary for one Party to make available to the other Party certain proprietary and confidential information (Hereinafter referred to as the “**Confidential Information**”). In order to specify the other Party’s obligation of confidentiality, based on the principles of equality, voluntariness, fairness and good faith, both Parties conclude this Confidentiality Agreement (Hereinafter referred to as the “**Agreement**”) and are irrespective whether or not the Parties will enter into other specific business and/or contractual relationships. Both Parties acknowledge that they have thoroughly examined the contents of the Agreement prior to conclusion of the Agreement and fully understand the legal implications of all the clauses of the Agreement.

1. 定义

Definition

下列应用于本协议之概念，除依据文义需另做解释外，系指本条陈述之意义：

The following definitions of the Confidentiality Agreement (the “**Agreement**”) shall refer to the meaning in this clause except those that need further clarification according to the meaning of the text.

- 1.1 “一方”或“另一方”系指签订本协议之主体及其现在与将来之国内外分公司、子公司、办事处、工厂、关联企业或其它营业组织。

“One Party” or “the other Party” refers to the parties that conclude the Agreement and the branches in China and abroad, subsidiaries, offices, plants, affiliated enterprises or other business organizations exist currently or shall be established in future.

- 1.2 保密信息指一方以口头、书面或其他方式向另一方披露的、与购销协议相关的、涉及一方、其关联公司和/或其客户业务、产品和技术等的信息，包括但不限于任何业务、商业或技术信息和资料，不管这些信息或资料采用何种媒介作为载体，具体内容为：

Confidential Information shall be any information to be disclosed to the other Party orally, in writing or through other ways regarding the purchase agreement, which shall refer to the business, products, technology etc. of one Party, its affiliated companies and/or its clients. This shall include, but without limitation to, any information and data concerning business, commerce or technology, whatever medium conveys such information or data and the details are as follows:

- 1) 技术信息：双方所签订的技术合作协议，开发技术方案、工程设计、电路设计、制造方法、配方、工艺流程、专有技术、发明及创意、技术指标、计算机软件、数据库、试验结果、图纸、图片、时间进度、计划安排、改进、步骤、规格和标准、样品、样机、模型、模具、操作手册、技术文档、涉及商业秘密的业务函电等。范围包含项目涉及到的所有内容（含后续工作补充内容）。

Technical Information: Technical cooperation agreement concluded between both Parties, technology development plan, project design, electric circuit design, method of production, formula, technological process, know-how, invention and originality, technical index, computer software, database, experiment result, blueprint, picture, schedule, plan arrangement, improvement, procedure, specification and standard, sample, prototype, model, mould, operation manual, technical documentation, business correspondence regarding trade secret. The scope includes all the contents relevant to the project (including follow-up work and supplementary contents).

- 2) 经营信息：双方所达成的价格协议，客户名单、营销计划、采购资料、定价政策、营销网络资源不公开的财务资料、进货渠道、产销策略、招投标中的标底及标书内容、各方之间的讨论、协商、谈判、交流、合同等；

Business Information: The price agreement reached by both Parties, customer list, marketing plan, purchase materials, pricing policy, non-public financial documents regarding marketing network sources, purchase channels, product sales strategy, bidding pretender and tender in tendering and bidding and the discussion, consultation, negotiation, communication, contract and etc. between both parties etc.

- 3) 一方享有或控制的任何信息或资料，包括但不限于方案、原型、资料、报告、方法、计划、概念、价格、需求预测、规格、图样、设计、工艺、模型、样品、代码、质量控制、测试、营运、采购、服务、营销、财务、研发、人力、投资和客户信息及资料、报表、电子数据等；
Any information or materials enjoyed or controlled by one Party, including but not limited to the plans, prototypes, documents, reports, methods, projects, concept, price, demand expectation, scale, drawings, designs, technique, models, samples, codes, quality control, tests, operation, purchase, service, marketing, financing, research and development, human resources, investment and client information and materials, financial statements, electronic data, etc;
- 4) 任何与一方工厂有关之信息，包括工厂的设施部署、设备、操作、设计、规划等资料与信息；
Any information related to the plant of one Party, including the materials and information of the deployment of the facilities, equipment, operation, design and plans etc.;
- 5) 另一方按照法律规定或者有关协议的约定，对外承担保密义务的事项；但是，不包括在提供、披露、形成或开发时，并非由于另一方违反本合同的规定而导致已为公众所知，或开始为公众所知的信息。
The other Party shall assume the obligation of confidentiality externally according to the regulations of law or stipulations of relevant agreement; however, it does not include information that has already been or starts to be publicly available not due to the fault of the other Party at the time of its being provided, disclosed, formulated or under development.

1.3 本条第 1.2 款规定的义务使用于所有保密信息，无论其
The obligations stipulated in item 1.2 of this Article apply to all Confidential Information irrespective of them

- a) being transferred before or after conclusion of this Agreement;
是在本协议订立之前还是之后被传递；
- b) being transferred to the other Party in writing, verbally, by telefax, email as well as in any other digital or electronic way;
是以书面、口头、电传、电子邮件还是以其它数据或者电子形式传递给另一方；
- c) being expressly classified as confidential or not.
是否被标识为机密。

2. 例外情形 Exceptions

2.1 在不违反本协议的前提下，保密信息不包括另一方通过下列途径获得的信息：
Under the pre-condition of no breach of the Agreement, confidential materials shall not include the information the other Party acquires through the following methods:

- 1) 该信息为另一方于一方揭露该资料之前获得，且另一方能够书面证明，或该信息为公众所周知；
The information has been acquired by the other Party before the disclosure of materials by one Party while the other Party is able to provide the written evidence or the information is publicly available;
- 2) 该信息为另一方独立开发获得，且另一方能够证明上述资料为其独立开发获得，在开发过程未利用或参照任何保密信息；

The information is independently developed and acquired by the other Party and the other Party is able to prove the independent development and acquisition for the above materials on its own without the benefit of or any reference to any Confidential Information;

- 3) 有书面资料证明该信息由另一方于第三方处获得，且该第三方拥有向另一方披露该信息的合法权利，就此无须向一方承担保密义务或限制使用该信息的义务；
The information is acquired by the other Party from a third party which can be certified by the written documents and the third party has the lawful right to disclose such information to The other Party and does not have any confidentiality and/or restricted use obligation to one Party with respect to the same;
- 4) 一方或另一方根据有关法律、证券交易规则、政府或监管机构、司法机构的要求而披露的信息；
The information was disclosed by one Party and the other Party as requested by the relevant laws, the security transaction, the governmental and supervision authorities or the judicial organs;
- 5) 一方事先书面同意另一方有权向第三方披露或传递信息。
One party has previously authorized, in writing, the other Party to divulge or communicate to third parties.

- 2.2 以下保密信息应不被视为前述之例外情形：（1）由公共领域内的或另一方所持有的一般信息所组合成的具体信息，或（2）由多重途径获取的信息拼凑而重构的保密信息合，且其中任一部分都无法显示该保密信息的整体组合、应用原理和/或使用方法。Confidential Information shall not be deemed within the foregoing exceptions if (i) it is specific and merely embraced by more general information in the public domain or in the other Party's possession or if (ii) it results from a combination of information pieced to reconstruct the Confidential Information from multiple sources, none of which show the whole combination, its principle of operation and/or method of use.
- 2.3 另一方应承担某信息是否属于第 2.1 条义务范畴的举证责任。
The burden of showing that any information is subject to the obligations of Article 2.1 shall rest with the other Party.
- 2.4 一方因公开而披露保密信息，如知识产权，将不会免除另一方对未被具体披露或从公开信息中无法明确的保密信息所应承担的保密义务，而不管一方是否实际使用该保密信息或其任何部分。
The disclosure of Confidential Information in a publication, such as intellectual property, made by one Party will not free the Employee with respect to its obligation to maintain in confidence any Confidential Information not specifically disclosed in or fairly ascertainable from the publication, regardless of whether such Confidential Information or any part of it is or is not actually used by the Company.

3. 保密义务

Obligation of Confidentiality

- 3.1 除本协议另有不同规定外，另一方保证严格保守机密资料的机密性，且该机密资料不得用于一方同意之外的任何目的。另一方应以善良管理人之注意义务保管该机密资料，未经一方事前书面同意不得将该机密资料泄露或交付予任何个人、合伙、法人、机关或非法人团体。另一方可以基于本协议之目的，向有必要知晓保密信息的本公司的员工和外部顾问披露该等信息。基于本条而知悉保密信息的相关人员，以下统称为“**另一方代表**”。另一方一经向另一方代表披露上述保密信息，应立即向该等另一方代表告知其在本协议项下承担的保密义务，并采取必要的措施以保证上述保密信息获得符合本协议规定的安全保存。

Unless otherwise stipulated by this Agreement, the other Party shall strictly ensure the confidentiality of the confidential materials, and the confidential materials shall not be applied for any purpose without consent by one Party. The other Party has the obligation of duty of care of a kindhearted

administrator to keep the confidential materials and shall not disclose or deliver the confidential materials to any person, partnership, legal person, institution or unincorporated association without prior written consent of the other Party. For the purpose of this Agreement, the other Party can make the Confidential Information available to the employees and the external consultants who are necessary to know the Confidential Information. The relevant personnel who will know the Confidential Information according to this Article is hereinafter referred to as the **“Representatives of the other Party”**. Upon disclosure of the Confidential Information to the Representatives of the other Party, the other Party shall notify its Representatives of their confidentiality obligations under this Agreement, and shall take the necessary measures to ensure the Confidential Information to be kept safely according to this Agreement.

- 3.2 除为履行本协议之目的，并获得一方同意后而为必要之复制外，未经一方明确书面同意，不得随意复制机密数据或为其它衍生行为。

Except those necessary copying for the purpose of performing the Agreement with the written consent by one Party, without prior written consent by one Party, the confidential data shall not be copied at will and other derivative actions shall not be conducted.

- 3.3 不得向不承担保密义务的任何第三人披露一方的商业秘密；
Not to reveal one Party's trade secret to any third party who assumes no obligation of confidentiality;

- 3.4 不得允许（出借、赠与、出租、转让或处分一方商业秘密的行为皆属于“允许”）或协助不承担保密义务的任何第三人使用一方的商业秘密；
Not to permit (all the acts including to lend, present, rent, transfer or dispose one Party's trade secret shall be regarded as “to permit”) or to assist any third party who assumes no obligation of confidentiality, to use one Party's trade secret;

- 3.5 另一方不得为了自身或者其关联公司的业务而使用一方的保密信息，特别是不得基于相同或者类似物品的生产、使用、销售或者营销而使用，也不得基于前述目的剽窃或者以其它任何形式复制保密信息。
The other Party shall not use one Party's Confidential Information for its own or any of its affiliated company's business purposes, particularly not for the production, use, sale or marketing of identical or similar items, or any kind of plagiarisms or other kinds of copies thereof.

- 3.6 另一方如发现一方保密资料遭不法使用、泄漏等情形或有发生之风险时，应立即书面及口头报告一方，并配合一方采取防止措施。
In case the other Party discovers the occurrence or potential risk of illegal use, disclosure or other situation of one Party's confidential materials, the other Party shall report to one Party both orally and in writing and shall cooperate with one Party and adopt preventative measures.

- 3.7 另一方不得就其从一方获得的任何保密信息或其结果申请知识产权保护。另一方不得对一方的任何权利（特别是，包括但不限于与接收到的保密信息有关的版权、专利、设计、商标、商号等）展开竞争或者提出挑战，也不得支持第三方这样做。
The other Party shall not file for intellectual property right protection for any kind of the Confidential Information obtained from one Party, nor for any results thereof. The other Party shall not contest or challenge any rights of one Party, particularly, but not limited to copyrights, patents, designs, trademarks, firm names (etc.), related to the received Confidential Information, nor shall it support third parties in such challenge and/or contest.

4. 权利归属

Ownership of the Rights

- 4.1 另一方所接受或知悉的一方机密资料的权利及利益，仍属一方之财产。

The ownership of the rights and interests of the confidential materials received or known by the other Party still belongs to one Party.

4.2 一方提供或揭露机密数据予另一方并不构成任何知识产权之授权处分、让与或出租。

The provision or disclosure of confidential data by one Party to the other Party does not constitute any authorized disposition.

5. 权利让予

Right Grant

5.1 未经另一方事先书面同意，任何一方不得全部或部分转让本协议项下的任何权利或义务。

Either Party, without the prior written consent of the other Party, is not allowed to transfer all or part of its rights or obligations under this Agreement.

5.2 若另一方与第三方合并、被第三方兼并或被第三方直接或间接控制，另一方不得向该第三方披露任何的保密信息。

Where the other Party is merged with or acquired by the third party, or directly or indirectly controlled by the third party, the other Party is prohibited to disclose any Confidential Information to the third party.

6. 所有权，保密信息的归还

Ownership, Return of Confidential Information

6.1 双方承认，所有保密信息属于披露方的财产。

The Parties acknowledge that all and any Confidential Information remains the property of the disclosing Party.

6.2 经一方请求或者本协议被解除或者到期终止的，另一方必须立即将所有保密信息以及它们的复印件、抄录、摘录、光盘、包含记录电子媒介以及其它所有的复制品归还给一方。不能归还的保密信息，如通过电子媒介存储的保密信息，必须由另一方立即删除。另一方应当在协议终止后七日内书面确认该等保密信息以及它们的复制品已经被销毁。

After request of one Party, in case of termination of this Agreement or after its expiry, the other Party must return immediately all Confidential Information as well as all copies, excerpts, abstracts, CDs and record-bearing media and all copies thereof, etc. to one Party. All Confidential Information that cannot be returned to one Party, i.e. all Confidential Information that is stored electronically, must be immediately deleted by The other Party. The other Party shall confirm in writing such destruction of the Confidential Information as well as any copies thereof to one Party within seven (7) days after termination.

6.3 双方对于对方的保密信息以及它们的复印件、抄录、摘录等不享有留置权。

The Parties are not entitled to a right of lien with regard to the respective other Parties' Confidential Information and copies, excerpts, abstracts etc. thereof.

7. 保密期限和终止

Term of Confidentiality and Termination

7.1 一方是本协议经双方签署后生效，有效期为三年。

This Agreement shall come into force upon signing by both Parties and shall be valid for 3 (three) years.

7.2 任何一方经提前三十天书面通知另一方可以解除本协议。

This Agreement can be terminated prematurely by each Party with thirty (30) days' prior written notice.

7.3 协议解除前已经产生的双方的权利和义务在本协议解除后三年内仍然有效。

The rights and obligations of the Parties which have accrued prior to termination shall, however, survive the termination of this Agreement for a period of 3 (three) years.

8. 违约责任

Breach of the Agreement

- 8.1 一方违反本协议下的保密义务属于严重违约。违约方应赔偿另一方因违约行为而遭受的损失。
Violation of the confidentiality as set forth herein by a Party shall be regarded as serious breach of this Agreement by this Party. The breaching Party is liable to the other Party's losses arising from the aforesaid contractual breach.
- 8.2 双方承认，一方违反本协议时，违约行为不会导致另一方必然遭受经济损失或者经济损失可能是无法计算的。然而，双方同意，受违约行为影响的一方有权索赔，且采取适当的救济阻止任何违反或者可能违反本协议的行为。
The Parties acknowledge that a breach of this Agreement by one Party may not in any case create an economic loss for the other Party, or that such loss may not be calculable. However, the Parties agree that the Party affected by a breach has the right to claim compensation and to take appropriate remedies to stop or prevent any behavior that violates or may violate this Agreement.
- 8.3 因一方的违约行为侵犯了另一方的商业秘密权利的，另一方可以选择根据本协议要求违约方承担违约责任，或者根据国家有关法律、法律要求违约方承担侵权责任。
In case one Party's action of breach of contract violates the other Party's rights of trade secret, the other Party can either choose to request that the breaching Party assume the obligation of breach of contract according to the Agreement or assume the tortious liability according to relevant national laws and legal requirements.

9. 一般条款

Miscellaneous

- 9.1 本协议效力涵盖至本协议相关条款所述之关联企业。
The validity of the Agreement extends to the affiliated enterprises in the relevant clauses of the Agreement.
- 9.2 双方应通过友好协商的方式解决因本协议产生的或者与本协议有关的任何争议。如果双方未能就争议解决达成一致，应当将争议提交上海国际经济贸易仲裁委员会（SIETAC），由该仲裁委员会根据申请仲裁时该委员会有效的仲裁规则进行仲裁。仲裁地点为上海，仲裁语言为中文。仲裁裁决是终局的，对双方均有约束力。仲裁费由败诉方承担，且败诉方应赔偿胜诉方支出的与仲裁程序有关的所有费用。
Any dispute arising from or in connection with this Agreement shall be settled through friendly negotiation. In case no settlement can be reached, the dispute shall be submitted to the Shanghai International Economic and Trade Arbitration Commission (SIETAC) for arbitration in accordance with its rules in effect at the time of applying for arbitration. The place of arbitration shall be Shanghai. The language of arbitration shall be Chinese. The arbitration award shall be final and binding upon both parties. The losing Party shall bear the costs of the arbitration procedure and reimburse the prevailing Party's all costs in connection with the arbitration procedure.
- 9.3 一方向另一方发送的所有书面通知包括本协议规定的沟通联络应当以中文作出，且应当通过挂号信、传真或者电子邮件的方式发送。
Any written notices including any written communication provided for in the Agreement from one Party to the other Party shall be made in Chinese and shall be sent by registered mail, telefax or email.

- 9.4 如本协议某一部分无效、不合法或无法执行，则本协议其余部分的效力、合法性和可执行性不受影响。该无效部分应当尽可能以能合法实现其经济目的的有效条款来代替。

In case part of this Agreement is invalid or becomes invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining part shall not be affected. In this case the parties shall substitute the invalid part by a valid clause which – as far as possible – achieves the same economic aim as the invalid part in a legal way.

- 9.5 本协议以中英文书就,如不同语言版本内容发生冲突时，应以中文版本为准。本协议自双方代表签字或加盖有效印章之日起生效，一式二份，双方各执一份，具有同等的法律效力。

This Agreement shall be executed in Chinese and English. Where this Agreement is also executed by both Parties in other languages and there is any discrepancy among these language versions, the Chinese language version shall prevail. The Agreement shall be effective upon signing of the representatives of the parties or sealing with the valid chop. The Agreement shall be executed in two originals, both Parties each shall have one original with the same legal effect.

(以下无正文)

(No Context Below)

金富宝电路板器材（昆山）有限公司
Schmoll PCB Equipment (Kunshan) Co., Ltd.

[...]

(公司章/company chop/)

(公司章/company chop)

授权代表签名：
Signature of authorized representative:

授权代表签名：
Signature of authorized representative: